IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

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JUDGMENT

Smt. Bassi Bai and others.
vs.
State Bank of Bikaner & Jaipur.

S.B.CIVIL REVISION PETITION NO.132/2007 UNDER SECTION 115 CPC AGAINST THE ORDER DATED 13.4.2007 PASSED BY SHRI YOGENDRA KUMAR PUROHIT, ADDITIONAL DISTRICT JUDGE (FAST TRACK), HANUMANGARH JUNCTION IN CIVIL EXECUTION CASE NO.5/2006.

DATE OF JUDGMENT ::: 18.5.2007

PRESENT

HON'BLE MR. PRAKASH TATIA, J.

Mr.Vijay Jain, for the petitioners.

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BY THE COURT:

Heard learned counsel for the petitioner.

The petitioners/judgment debtors are aggrieved against the order dated 13.4.2007 by which the

executing court dismissed the petitioners' objection filed in the execution petition.

According to learned counsel for the petitioners, the valuation of the property is required to be mentioned in the sale proclamation and as per Order 21 Rule 66 CPC, the Court is required to mention the valuation as put forward by the decree holder as well as the valuation given by the judgment debtor. Learned counsel for the petitioners in this regard relied upon the judgment delivered in the case of Gajadhar Prasad and others vs. Babu Bhakta Ratan and others reported in AIR 1973 SC 2593, wherein in execution proceedings, one of the objection of the judgment debtor was that he gave higher valuation of the property than the valuation given by the decree holder and that fact has not been mentioned in the sale proclamation and that cause prejudice to the interest of the judgment debtors. The Hon'ble Supreme Court held that mere mention of the valuation in the sale proclamation of the properties sought to be attached by the decree holder, without assigning any reason for non-mention of the valuation as put by the judgment debtor was material irregularity when the judgment debtor suffered substantial injury by the sale.

Learned counsel for the petitioners further relied upon the judgment of the Hon'ble Supreme Court in the

case of M/s. Shalimar Cinema vs. Bhasin Film Corporation and another reported in AIR 1987 SC 2081 wherein the Hon'ble Supreme Court observed that we think it necessary to add that no action of the court or its officers should be such so as to give risk to the criticism that it was done in an indifferent or casual way. These observations were made by the Hon'ble Supreme Court when an objection was raised against the sale of the property through the Court and where the procedure under Order 21 Rule 66 CPC was not followed by the court below.

Learned counsel for the petitioners submitted that the sale proclamation has not been issued and, therefore, the action of the executing court of the sale of the property will be contrary to law as laid down by the Hon'ble Supreme Court in its judgments delivered in the cases of (1) A Venkatachalam and others. vs. E.M. Zackria and others reported in 1987 (Suppl.) SCC 124 and (2) Lal Chand vs. VIIIth Addl. District Judge and others reported in AIR 1997 SC 2106.

Learned counsel for the petitioners also relied upon the judgment of the Hon'ble Supreme Court delivered in the case of Desh Bandhu Gupta vs. N.L. Anand & Rajinder Singh reported in (1994) 1 SCC 131.

I considered the submissions of learned counsel for the petitioners and perused the facts mentioned in

the objection petition filed by the judgment debtors as well as the order passed by the executing court.

In the objection petition, objections were raised only to the effect that the petitioners have preferred regular appeal to challenge the decree dated 8.4.2005 before the High Court and that appeal is pending, therefore, in case, the property will be auctioned, they will be prejudiced. The second objection raised by the petitioners is that the valuation given by the bank, decree holder, is too low whereas the present valuation of the property is more than Rs.7-8 lakhs. The executing court considered the contention of the judgment debtors and rejected the judgment debtors' valuation report on the ground that the valuation report was old one whereas the decree holder submitted the recent valuation report.

In view of the above, the executing court considered the objection of the petitioners and rejected their valuation report. Therefore, it is not a case of proceeding in routine manner by the executing court and also it is not a case where the executing court has not given any reason for not mentioning the valuation given by the judgment debtors. In view of the above reasons, the judgments relied upon by learned counsel for the petitioners have no application to the facts of the case.

Other objections like sale proclamation was not issued etc. Were not raised before the executing court. Be it as it may be, the executing court proceeded within its jurisdiction and has mentioned the valuation of the property given by the decree holder after rejecting the valuation given by the judgment debtors.

In view of the above, I do not find any illegality in the impugned order so as to interfere in revisional jurisdiction.

Consequently, this revision petition, having no merit, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya